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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,403	03/12/2004	Frank Boyer	BOYER-PA-1	7143

7590 07/11/2005

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10 NORTH CALVERT STREET
BALTIMORE, MD 21202

EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,403

Applicant(s)

BOYER, FRANK

Examiner

Stephen M. Johnson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3641

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the shotgun with associated muzzle end (see claims 1 and 8) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 4-5, use of the phrase "said cylinder being defined by an internal channel

Art Unit: 3641

having an increasingly smaller average internal diameter” makes the claim indefinite. A cylinder, by definition, has a uniform internal diameter. In claim 1, line 3; and in claim 8, line 2, what the word “it” is intended to represent is indefinite. In claim 1, line 7, the phrase “said tapered channel” lacks an antecedent. In claim 7, line 2, how is the phrase “external series of screw threads” intended to relate to the previously claimed “a coupling at one end for concentrically securing” (see claim 1, line 3)?

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Pachmayr et al..

Pachmayr et al. disclose a choke with associated shotgun comprising:

- a) a hollow tapering cylinder; inside 15, 16
- b) an internal channel having increasingly smaller diameter; inside 15, 16
- c) securing threads; 17
- d) a plurality of raised annular projections; 32
- e) a tapered channel; 32 (see fig. 2)
- f) a textured area along the outer surface. outside 15 (see fig. 1)

5. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

Johnson discloses a choke with associated shotgun comprising:

- a) a hollow tapering cylinder; 10, 14

Art Unit: 3641

- b) an internal channel having increasingly smaller diameter; 10, 14
- c) securing threads; 6
- d) a plurality of raised annular projections; and along 14 (see fig. 3)
- e) a tapered channel. 14 (see fig. 3)

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner et al. in view of Miller et al. or Martel.

Warner et al. disclose a choke/flash suppressor with associated firearm comprising:

- a) a hollow tapered cylinder; see fig. 3
- b) an internal channel having increasingly smaller diameter; see fig. 3
- c) securing threads; 16
- d) a plurality of raised spiral projections; and 58i, 78i
- e) a tapered channel. see fig. 3

Warner et al. apply as recited above. However, undisclosed is a flash suppressor attached to a shotgun. Miller et al. (col. 3, lines 8-12 and item #164) and Martel (col. 1, lines 11-13 and 23-27) each teach a flash suppressor attached to a shotgun. Applicant is substituting one type of firearm for another in an analogous art setting as explicitly encouraged by the secondary

Art Unit: 3641

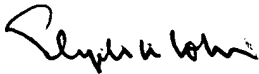
references (see col. 3, lines 8-12 of Miller et al. and col. 1, lines 11-13 of Martel). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Miller et al. or Martel to the Warner et al. firearm with associated flash suppressor/choke device and have a flash suppressor/choke device attached to a different type of firearm.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Janecek et al. and Ferhat disclose other state of the art muzzle attachments.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned are 703-872-9306. As of July 15, 2005, the fax phone number for the organization where this application or proceeding is assigned will change to 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
July 7, 2005